

Hanoi, 7 January 1991.

DECREE ON ROYALTIES

THE COUNCIL OF MINISTERS

Pursuant to the Law on Organization of the Council of Ministers dated 4 July 1981;

On the basis of the Ordinance dated 30 March 1990 enacted together with an attachment to Order No. 34-LCT-HDNN8 of the State Council dated 9 April 1990;

DECREES

I. Tax Payers and the Calculation of Royalties

Article 1

All organizations and individuals in the various economic sectors, enterprises with foreign investment and foreign parties to business co-operation contracts established under the Law on foreign Investment in Vietnam and engaged in the exploitation of natural resources in any form shall be taxed in the form of royalties in accordance with the provisions contained in article 1 of the Ordinance on Royalties.

Article 2

All natural resources which belong to the Socialist Republic of Vietnam shall be the subject of payment of royalties.

Article 3

Royalties shall not be paid by:

1. Vietnamese organizations of any economic sector and individuals residing in Vietnam, which, or who:

(a) Exploit natural forest products and have already made payment to the forest Maintenance fund established under the provisions of decision No. 116-HDBT of the Council of Ministers dated 20 July 1988.

The Ministry of finance in conjunction with the Ministry of forestry shall consider treating payments made to the fund for forest maintenance as payments of royalties in accordance with the Ordinance on Royalties so that all activities of exploitation of natural forest products throughout the entire country may be subject to the Ordinance at the same point of time.

(b) Exploit natural water resources other than for the purposes of hydroelectric power production.

2. Enterprises with foreign owned capital and foreign parties to business co-operation contracts which have been issued with a license by the State Committee for Co-operation and Investment prior to the date of commencement of the Ordinance on Royalties which license stipulates the rate for payment of royalties. Such parties shall continue to pay the amount specified in the license and not be liable for the payment of any higher amount under this Ordinance until the term of the contract expires.

Article 4

In the case product sharing by the parties to a joint venture enterprise comprised of a foreign party and a Vietnamese party, or a contractual business co-operation, the joint venture enterprise or foreign party shall pay royalties as specified in the joint venture contract or business co-operation contract approved by the State Committee for Co-operation and Investment in proportion to the amount of products shared by the Vietnamese party. Where the exploited products are shared, the Vietnamese party shall be liable to pay all amounts of royalties in respect of its share to the State Revenue in accordance with the provisions determined by the Ministry of finance.

II. Bases for the Calculation of Royalties

Royalties Tariff

Article 5

The basis upon which the amount of royalties is to be paid shall be calculated shall be the quantity of resources exploited, the taxable value of a unit of production and the particular royalty rate to be levied on the taxable value of the resources exploited.

Article 6

The quantity of resources exploited to be used in the calculation of royalties shall be the output (weight, volume) of each type of resource periodically exploited (month, term, year), regardless of whether it has been sold.

Article 7

The taxable value of a unit of production to be used in the calculation of royalties shall be the actual sale price of unprocessed resources as exploited by the organization or individuals concerned.

1. Where the resources are distributed within the Vietnam market including sales for the purposes of domestic consumption or to an organization for export, the price for tax calculation shall be the actual price charged for the crude resources at the time of calculation of royalties.
2. Where the resources are directly exported by the exploiting organization, the price for tax calculation shall be the average sale price in foreign currency under the terms of contracts of sale of like goods at the frontier port of Vietnam (fOB) at the time of calculation of royalties.
3. Where no sale price as referred to in sub-clauses 1 and 2 of this article is available in respect of unprocessed resources exploited, (due to lack of processing or the presence of various substances) the Ministry of finance shall, in conjunction with the ministries in charge, decide the taxable value to be applied to each type of resource.

Article 8

The royalty rate to be levied in respect of each type of resource depends upon the quality of the resources concerned, the conditions of their exploitation and transportation and all other considerations of international practice and policy in the international market.

The royalty rates to be applied in respect of each group of resources shall be those specified in the following tariff:

Groups of resources	Tax rate (%)
I. Metals/minerals	2 - 10
1. ferrous minerals	2 - 8
2. Non-ferrous minerals	3 - 10
3. Rare metal minerals (wolfram, tin, antimony)	5 - 10
In particular: gold	2 - 15
II. Coal	1 - 5
In particular: brown coal, fat (cannel) coal	1 - 10
III. Oil, gas	6 - 20
1. Oil	10 - 20
2. Gas	6 - 10
IV. Non-metal minerals	1 - 12
1. Industrial non-metal minerals	3 - 12
2. High grade building materials	2 - 8
3. Standard grade building materials	1 - 3
4. Gemstones	3 - 15
5. Other non-metal minerals	1 - 5
V. Products of natural forests	10 - 40
In particular: group 1 timber	5 - 40
Special products: pharmaceutical materials (such as sandalwood, aquilegia, ammonium, cinnamon)	20 - 40
forest animals and birds	15 - 40
VI. Natural marine products	5 - 10
In particular: Salangane's nests,	

holothurian, tortoise shells, pearls

VII. Other resources

1 - 10

Additional royalties shall be imposed in respect of rare and precious metals which have a high value and in respect of which there are favorable conditions for mining.

Article 9

The Ministry of finance shall be responsible for collaborating with the relevant ministries and giving all assistance necessary to enforce the rates in the tariff contained in article 8.

III. Declaration and Payment of Royalties

Article 10

All organizations which, and individuals who, engage in any form in the exploitation of natural resources shall fully comply with all provisions regarding the declaration, registration and payment of royalties stipulated in articles 8 and 9 of the Ordinance on Royalties. Any person who breaches the provisions may be liable for the penalties stipulated in articles 15, 16 and 17 of the Ordinance on Royalties.

The Ministry of finance shall be responsible for making detailed provisions for declaration, registration and payment of royalties.

Article 11

All organizations which, and individuals who, engage in the exploitation of natural resources shall strictly comply with the standards of the books of account required in accordance with the provisions of the Ordinance on Accounting and Statistics dated 10 May 1988 in relation to accounting procedures, and with the regulations for making orders for and invoices of goods and receipts according to the provisions in force at the time.

Article 12

All royalties collected shall be transferred to the State Treasury which shall allocate them to the local budget in accordance with the stipulations of the resolution of the Council of Ministers on the delegation of management of the budget to the localities.

Article 13

State tax offices shall perform the duties provided for in articles 10 and 11 of the Ordinance on Royalties.

IV. Reduction of Royalties

Article 14

A reduction of royalties shall be considered in the following cases:

1. Where a domestic organization or individual has shortly, after commencing exploitation of resources, suffered losses caused by natural disasters or war.

The applicable period for, and amount of, all reductions of royalties shall depend upon the period of time during which exploitation has taken place, the degree of difficulty which has been encountered and its effect on the results of the business of the organization or individual concerned. The maximum period for which royalties may be reduced shall not exceed three years from the date of commencement of the exploitation. The amount of reduction shall not exceed 50% of the total amount of royalties otherwise payable in the first year, 40% in the second year and 30% thereafter.

2. Where a domestic organization or individual exploits resources which remain in areas where mining has ceased, it or he may be granted a reduction not exceeding 50% of the total amount of royalties otherwise payable, in respect of those resources.

Article 15

The Ministry of finance shall be responsible for determining the matters to be considered in applications for a reduction of royalties and the degree of reduction to be permitted in accordance with the provisions contained in article 12 of the Ordinance on Royalties.

V. Implementation

Article 16

This Decree shall be of full force and effect as of the date of its signing. All the provisions previously enacted which are inconsistent with this Ordinance are hereby repealed.

Article 17

The Minister of finance shall provide all assistance necessary for the implementation of this Decree.

Article 18

Ministers, chairmen of State Committees, heads of other bodies of the Council of Ministers, chairmen of the people's committees of the provinces, cities, and special zones under central authority shall, within their functions, powers and duties organize the implementation and control of compliance with the provisions of the Ordinance on Royalties.

for the Council of Ministers
Vice Chairman

VO VAN KIET